

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 13:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.140 provides for the certification of honorably retired elected or appointed peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C and requires the department [~~Kentucky State Police~~] to promulgate administrative regulations to implement the certification provisions. This administrative regulation establishes the requirements and procedures for range qualification for certification.

Section 1. Perform Live-firing Exercises. An applicant shall annually qualify for certification by performing a live-firing exercise in which the applicant is required to:

- (1) Fire from a safe position;
- (2) Perform without receiving any assistance in holding, aiming, or firing from the instructor or any other person; and
- (3) Meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140(4)(a).

Section 2. Supervision of Live-firing Exercise. The live-firing exercise shall be supervised as required by KRS 237.140(4)(b).

Section 3. Live-Firing Exercise Procedures and Grading. (1) If the live-firing exercise is conducted at a facility or range that requires a training instructor or range officer to clear or directly supervise and assist in the clearing of all firearm jams or malfunctions, the clearing of a firearm jam or malfunction by a certified firearms instructor or facility range officer in accordance with that policy shall not constitute prohibited assistance to an applicant for the purposes of Section 1(2) of this administrative regulation.

- (2) An applicant shall provide a safe, functional handgun and factory-loaded ammunition.
- (3) Prior to conducting range firing, the firearms instructor shall:
 - (a) Inspect each applicant's firearm; and
 - (b) Not allow the firing of a handgun that the instructor has reason to believe is not in sound mechanical condition or otherwise may pose a safety hazard.
- (4) A passing grade shall not be given on range work to an applicant who:
 - (a) Does not follow the orders of the firearms instructor;
 - (b) In the judgment of the firearms instructor, handles a firearm in a manner that poses a danger to the applicant or to others; or
 - (c) Fails to meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140(4)(a).

(5) If the applicant successfully completes the live-firing exercise, the firearms instructor shall mail or hand deliver the completed KSP Form 123, "Law Enforcement Officer Safety Act Peace [~~Peace~~] Officer Range Qualification Certification [~~LEOSA, KSP Form Number 123~~], showing the applicant's successful completion of the live-firing exercise to the applicant within five (5) business days.

Section 4. Incorporation by Reference. (1) KSP Form 123, "Law Enforcement Officer Safety Act Peace ["Peace] Officer Range Qualification Certification[LEOSA," KSP 123], 2014 edition, [07/05,] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1250 Louisville, Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the department Web site. ~~[The phone number for the Criminal Identification and Records Branch is (502) 227-8700.]~~

COL. PHILLIP J. BURNETT, Jr., Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for range qualification for certification.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the requirements and procedures for range qualification for certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by implementing the certification provisions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists in the administration of the statutes by establishing the appropriate procedures for qualifications.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment serves to update the forms currently in use by the department.

(b) The necessity of the amendment to this administrative regulation: The amendment brings the revision up to date.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment assists in the administration of the statutes by establishing the appropriate procedures for qualifications.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the procedures currently in use by the department.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No new actions must be taken on behalf of the regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: The amendment provides additional guidance to the regulated entities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Nothing.

(b) On a continuing basis: Nothing.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment is not anticipated to increase implementation or enforcement costs.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment of this regulation does not establish any new fees or increase any current fees, directly or indirectly.

(9) TIERING: Is tiering applied? No. Tiering was not applied because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 237.140

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.